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SUBJECT: ETHIOPIAN MINISTER OF JUSTICE DISCUSSES OPPOSITION
TRIAL, PARDONS, AND JUDICIAL REFORM

Classified By: CHARGE D'AFFAIRES AMBASSADOR VICKI HUDDLESTON FOR REASON
S 1.4 (B) AND (D)

¶1. (C) Summary: In a wide ranging discussion with Minister of Justice Assefa Kessito, COM and ConsChief learned that the Ministry of Justice (MOJ) continues to evaluate the feasibility of granting pardons to certain convicted criminals for the Ethiopian New Year (September 11). The Minister also discussed the possibility of sending a team to the United States to meet legal experts and authorities, his pride in the recent expansion of prosecutorial discretion, and his confidence that the evidence from the opposition trial will support a conviction. End Summary.

¶2. (C) On pardons, the Minister emphasized that there will be no pardons for those who commit rape, corruption, genocide, acts against humanity, or for recidivist criminals. He advised that no pardons were granted during the time of the Derg, but that the emperor twice used the pardon mechanism to release convicted criminals. Currently, as there are only 629 convicted federal prisoners, he said that the regional authorities were looking at those who, based on age, time served, health and other factors would be considered for release. The Minister declined to state a fixed number. On amnesties for those not convicted of crimes, he noted that the parliament would have to produce some kind of proclamation. He didn't think this was likely.

¶3. (C) Minister Assefa talked at length about his idea to send to Washington, as early as September, a team of one minister and three prosecutors, who could learn about the structure of the attorney general's office, possibly meet with the attorney general, lawyers, and essentially have a short course on either state or federal criminal procedure. This visit would be followed by further studies in Canada and France of their judicial systems. COM assured the Minister that if the Ministry had the funds, our Public Diplomacy section would assist in creating a program for them. Of particular interest to the Minister were the different chains of supervision for the police, prosecutors and judiciary. Also of interest was how police investigators and prosecutors could work more efficiently together, especially in terms of transferring investigations to the prosecutorial branch.

¶4. (C) Reflecting on the changes he hoped to see in Ethiopia's justice system, the Minister said that in the future he wanted the prison administration and the Ministry of Federal Affairs to be placed under MOJ jurisdiction. Also currently not under his jurisdiction are two commissions: the Federal Ethics and Anti-Corruption commission, and the Derg Commission. They report directly to the prime minister. COM and Conschief were advised that the case of the sole American prisoner, who was charged with corruption, was under the authority of the anti-corruption commission. As far as the Derg commission, he thought there might be a decision in January regarding the Derg cases, and noted that while the Criminal code allows for capital punishment, it is not

exercised in Ethiopia.

15. (C) Minister Assefa seemed particularly proud that as recently as a month ago prosecutors began a month ago to exercise their discretion on seeking convictions or dismissing cases pursuant to already existing criminal procedures. Prosecutors also began to train the police on how to assemble better files. He was critical of inefficient investigations and commented that in article 23 of the 1961 criminal procedure, the police are charged with investigations that they cannot dismiss. These investigations may land a suspect in jail before the police have collected evidence or even have probable cause. He noted that even if the police thought the investigation had little or no merit, they were compelled to proceed with little discretion to drop the case. Thus, his apparent eagerness to send a team abroad to examine other legal systems.

16. (C) When the COM questioned Minister Assefa about the CUD trial, he assured the COM that one of his most important priorities was that the trial process be conducted in accordance with international standards, human rights, transparency, and with speed. However, regarding the evidentiary aspects of the case, he remained strictly on message. He simply stated &We will win.⁸ He attributed some of Western observer skepticism about the evidentiary quality to &translation problems⁸, and assured the COM that they had documents and even eyewitnesses, some of whom he claimed were now &divorced⁸ from the CUD and who would help prove the government's case by testifying against their former opposition partners. &There is a crime⁸ he insisted, but rather than cite evidence, he proceeded to press political points: the opposition had a plan to either not participate in the election, or, if they did participate and lost, to still overthrow the government; they refused commit to the election process or to accept opinions of the

election board. CUD members chose to follow criminal paths; rather than negotiate or take their seats, the CUD preferred to say they won the election and instigate violence. In the South and in the North, specifically in Gonder, the Minister stated that armed gangs were created to topple the government, while some CUD members worked with the Eritreans to undermine the government. To bolster his evidentiary argument and demonstrate that the arrests were made based on probable cause, he said only 25 out of 60 CUD members were arrested, thereby intimating that they could have arrested all the CUD members if the trial were exclusively politically motivated.

17. (C) When pressed by the COM on CUD prisoner health issues and prisoner treatment, the minister deferred to the authority of the courts and prison administration to resolve those issues. The COM stated that no matter the outcome the trial would be viewed as political, and that there must be a resolution to this political impasse through dialogue. The minister with palpable bitterness asserted that dialogue had failed and then launched into a diatribe on how the opposition CUD and OLF were trying to exacerbate ethnic tensions, and that the Amhara were intent on imposing a centralized ethnic hegemony over the other peoples within Ethiopia. He stated that rather than granting nations and nationalities within Ethiopia the right to express their own culture and language, the CUD would cause the country to tear apart. In contrast, the current government was determined to create an atmosphere where all 81 linguistic peoples could call themselves Ethiopian.

8 (C) (Comment) It appears that there is a genuine interest to modernize and reform the judicial system, and that some form of pardon will be granted to convicted criminals in September. However, given the campaign-like rhetoric heard today from the Minister when he spoke about the opposition trial, Post may want to look at methods for achieving pardons for soon-to-be convicted opposition leaders. (End Comment).
HUDDLESTON